



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/502,923	02/11/2000	Joseph Gebis	AM9-98-146	5882

23334 7590 09/16/2003

FLEIT, KAIN, GIBBONS,  
GUTMAN & BONGINI, P.L.  
ONE BOCA COMMERCE CENTER  
551 NORTHWEST 77TH STREET, SUITE 111  
BOCA RATON, FL 33487

EXAMINER

TRAN, PABLO N

ART UNIT

PAPER NUMBER

2685

DATE MAILED: 09/16/2003

6

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/502,923

**Applicant(s)**

GEBIS ET AL.

**Examiner**

Pablo N Tran

**Art Unit**

2685

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed 07/10/03 have been fully considered but they are not persuasive.

The Applicant's stated that "*Cannon* does not teach or suggest the content is organized into at least one channel or the subscriber content preferences comprises preferences for at least one preferred channel within at least one channel". *Cannon* disclose subscriber preference channel (sources) such as stock, news, weather, and traffic sources (channel). *Cannon* further disclosed that such information from the preferred source(s) is/are fetch and formatted and delivered to the subscriber based upon the subscriber's profile (col. 2/ln. 39-col. 3/ln. 40, col. 5/ln. 43-col. 6/ln. 28).

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-8, 12-19, and 23-30 are rejected under 35 U.S.C. 102(e) as being anticipated by *Cannon et al.* (5,974,447).

As per claims 1, 13, and 24, *Cannon et al.* disclosed an information handling system comprising a content database (col. 1/ln. 66-col. 2/ln. 10) for storing content and the content is organized into at least one channel, means for receiving subscriber content preference and the subscriber content preferences comprises preferences for at least one preferred channel within the at least one channel (col. 2/ln. 19-26), a content controller (fig. 1/no. 22) for selecting from the at least one preferred channel according to the subscriber content preference, means for mixing content (col. 2/ln. 51-col. 3/ln.12) from the at least one preferred channel according to subscriber content preference, a modulator (fig. 1, col. 2/ln. 19-38) coupled to the text-to-audio converter for modulating audio content, and a transmitter (fig. 1, col. 2/ln. 19-38) coupled to the content database

and to the means for mixing content for wirelessly transmitting mixed content from the at least one preferred channel to the mobile terminal.

As per claims 2, 14, and 25, *Cannon et al.* disclosed a radio frequency transmitter (col. 2/ln. 26-29).

As per claims 3, 15, and 26, *Cannon et al.* disclosed the transmitter operated under analog cellular protocol (col. 4/ln. 16-col. 5/ln. 42).

As per claims 4, 16, and 27, *Cannon et al.* disclosed the transmitter operated under analog cellular protocol (col. 4/ln. 16-col. 5/ln. 42).

As per claim 5, *Cannon et al.* disclosed subscriber content preference are provided by the subscriber (col. 2/ln. 51-col. 3/ln.12).

As per claims 6-8, 17-19, and 28-30, *Cannon et al.* disclosed the subscriber content preference comprises music, stock, or sports (col. 2/ln. 47-50, col. 3/ln. 53-60).

As per claims 12 and 23, as stated above in calim1, *Cannon et al.* further disclosed a method for personal radio system comprising fetching and mixing the content from at least one preferred channel according to the subscriber content preference and wirelessly transmitting the content to the subscriber (col. 2/ln. 51-col. 3/ln.12).

As per claim 34, *Cannon et al.* disclosed a text-to-audio converter (col. 4/ln. 25-30).

***Claim Rejections - 35 USC § 103***

Art Unit: 2685

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 9-11, 20-22, and 31-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Cannon et al.* (5,974,447).

As per claims 9-11, 20-22, and 31-33, *Cannon et al.* disclosed that content from several sources can be delivered in accordance with the subscriber configurable preference order or that time sensitive variable content (such as stock quote) need to delivered to the subscriber but does not explicitly disclose that contents can be delivered to the subscriber simultaneously. However, it would have been obvious to one of ordinary skill in the art to provide such subscriber preference contents delivery's order to the subscriber to provide flexibility in programming/set subscriber's configuration preference order.

As per claims 35-36, *Cannon et al.* disclosed that a subset of the mixed/combined info. from the multiple channels is sent to one of a plurality of speakers (col. 4/ln. 25-30).

### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pablo Tran whose telephone number is (703)308-7941.

Application/Control Number: 09/502,923  
Art Unit: 2685

Page 6

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban, can be reached at (703)305-4385.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

**(703) 872-9314 (for Technology Center 2600 only)**

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

**PABLO N. TRAN**  
**PRIMARY EXAMINER**

September 10, 2003

  
